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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,953	10/11/2001	Jan Byrla	225/50478	5831

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/973,953

Applicant(s)

Byrla

Examiner
Gary Estremsky

Art Unit
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1.5 6) ☐ Other:

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 positively sets forth the invention as a "passenger car, having an unlocking handle,..." whereby claim 18 amounts to double inclusion of the "unlocking handle" since "a vehicle" is broader than, and does not further define previous recitation of "passenger car". Accordingly, it is not clear what the scope of the claim should include.

As regards claim 28, it is not clear if or how the limitation further defines the claimed method whereby the scope of the claim is rendered indefinite.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. As best understood, claims 1, 13, 19, 25, 28, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,445,326 to Ferro.

Ferro '326 teaches Applicant's claim limitations including : a "passenger car" - as described in the abstract, having an "unlocking handle" - 36, "having a luminous construction" - see col 6, lines 1-4, where the luminous coating of the reference reads on broad limitation of "luminous body".

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 5, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,445,326 to Ferro.

Ferro '326 does not explicitly disclose the luminescent coating to consist of a "luminescent crystal mixture which is mixed with a transparent plastic material and/or is embedded therein". However, the examiner takes Official Notice that luminescent coatings such as acrylic paint or other clear plastic-base paint mixed with a luminescent crystal mixture are well known and within the scope Ferro '326 reference whereby it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide a well known luminescent acrylic paint or other luminescent plastic coating where such construction would not affect the function of the disclosed device and one of ordinary skill in the art would have more than a reasonable expectation of success. The examiner points out that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,445,326 to Ferro in view of U.S. Pat. No. 5,129,694 to Tanimoto.

Although Ferro '326 does not disclose gluing the luminescent coating to the handle, Tanimoto '694 discloses that it is well known to glue a softer material portion of the desired color onto a handle base portion in order to provide a strong handle with the desired color. It would

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have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the handle of Ferro '326 with a separate luminescent coating portion glued onto the base portion in order to provide a softer feel to the contact portion and allow a desired (luminescent) color to be used.

9. As best understood, claims 1, 2, 5, 6, 9, 10, 12-14, 16-20, and 22-29 are rejected under 35 U.S.C.103 as being unpatentable over U.S. Pat. No. 6,086,131 to Bingle in view of U.S. Pat. No. 1,762,447 to Lowes.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Bingle '131 teaches Applicant's claim limitations including : a "passenger car" - see abstract, having an "unlocking handle" - 12. Bingle '131 teaches a luminescent handle at col 7, line 11-14 but does not teach a distinct "basic body" and "luminous body mounted thereon". However such handles are long known in the art as taught by Lowes '447 whereby it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a luminous handle for the device of Bingle '131 constructed from a basic body with a luminous body mounted thereon as taught by Lowes '447 in order to provide a handle made from a stronger material that is easy to locate in darkness due to its luminescence.

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As regards claim 2, the handle construction of Lowes '447, as relied upon, reads on limitation of "dovetail guide" as shown in Fig 3 of that reference.

As regards claims 5, 6, Lowes '447, as relied upon does not explicitly disclose the luminescent coating to consist of a "luminescent crystal mixture which is mixed with a transparent plastic material and/or is embedded therein". However, the examiner takes Official Notice that luminescent coatings such as acrylic paint or other clear plastic-base paint mixed with a luminescent crystal mixture are well known and within the scope of Lowes '447, as relied upon, whereby it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide a well known luminescent acrylic paint or other luminescent plastic coating where such construction would not affect the function of the device and one of ordinary skill in the art would have more than a reasonable expectation of success.

As regards claim 26, although Lowes '447, as relied upon, does not disclose step of gluing, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide glue where the examiner takes Official Notice that it is well known in the art to provide glue in addition to or as an alternative to mechanical connection means to form a permanent connection and the use of glue would not otherwise affect the function of the invention and amounts to little more than an obvious design choice or engineering expedient. See U.S. Pat. No. 5,129,694 for example which discloses equivalent connection means of special-colored handle

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surface portion to handle base portion including gluing. The reference is cited herein to indicate general background knowledge of those having ordinary skill in the art.

10. Claims 3, 4, 7, 8, 11, 15, and 21 are rejected under 35 U.S.C.103 as being unpatentable over U.S. Pat. No. 6,086,131 to Bingle in view of U.S. Pat. No. 1,762,447 to Lowes and further in view of U.S. Pat. No. 5,088,781 to Ono.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Bingle '131 teaches Applicant's claim limitations including : a "passenger car" - see abstract, having an "unlocking handle" - 12. Bingle '131 teaches a luminescent handle at col 7, line 11-14 but does not teach a distinct "basic body" and "luminous body mounted thereon". However, Lowes '447 teaches that it is well known in the art to attach a separate luminescent handle portion to a base handle portion. Regardless, Lowes '447 does not teach a attaching the second portion to the base using a detent connection. However, it is well known in the art to attach the second portion to the base portion using a detent connection as shown by Ono '781 for example. It would have been obvious to one of ordinary skill in the art at the time of the invention to attach a separate luminescent portion to a handle base portion of Bingle '131 in order to form a strong handle with a luminescent portion.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Pat. No. Des. 112,807 to Cossin.
- b. U.S. Pat. No. 2,071,147 to Watson.
- c. U.S. Pat. No. 2,125,783 to Heeman.
- d. U.S. Pat. No. 3,543,329 to Gulette.
- e. U.S. Pat. No. 4,981,314 to Carr.
- f. U.S. Pat. No. 5,008,551 to Randolph.
- g. U.S. Pat. No. 5,509,174 to Worrell.
- h. U.S. Pat. No. 5,640,741 to Yano.
- i. U.S. Pat. No. 6,209,933 to Ang.

12. Submission of any response by facsimile transmission is encouraged. Group 3677's relevant facsimile numbers are :

- 703-872-9326, for formal communications for entry **before Final** action: or
- 703-872-9327, for formal communications for entry **after Final** action.

Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly within our examining group and will eliminate Post Office processing and delivery time and will bypass the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or

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amendments not requiring a fee, as well as those requiring a fee but charging such fee to a Deposit Account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) ____ - ____) on _____
(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is (703) 308 - 0494. The examiner can normally be reached on M - Th from 730 am to 600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann, can be reached on (703) 306-4115.

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14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

- Technology Center 3600 Customer Service is available at 703-308-1113.
- General Customer Service numbers are at 800-786-9199 or 703-308-9000.

GWE

August 7, 2002

A handwritten signature in black ink, appearing to read 'G. Estremsky', with a stylized, cursive script.

**GARY ESTREMSKY
PRIMARY EXAMINER**